

Application No. 09/695,539  
Atty.Dkt.: ZL370/01001  
Inventor: Stefanovic  
Title: System and Apparatus for Hosting  
Combined Online and Live Auctions

### REMARKS

#### Examiner's reply to Response to Arguments

The Examiner has rejected Claims 1-28 of the present patent application on the basis that they are obvious in view of United States Patent Nos. 6,006,201 to Berent et al., 6,415,270 to Rackson et al. and in view of 6,226,412 to Schwab. The Examiner has stated that the differences submitted by the applicants in the prior amendment were "only found in the nonfunctional descriptive material and are not functionally involved in the steps recited" and therefore could not distinguish the claimed invention from the prior art in terms of patentability.

The Examiner has taken the position that the "physical location of the auction" should constitute "non-functional descriptive material" and therefore is not functionally involved with the steps recited. Furthermore, the Examiner went on to elaborate that because the collection and correlating of the bids would be performed the same regardless of where the data originated, these portions of the claims were non-functional subject matter and therefore unable to distinguish the claimed invention from the prior art in terms of patentability. He went on to state that because the location of the bids to collect did not functionally relate to the steps in the method claimed of recording and manipulating the bids to conclude an auction transaction, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to collect the bids from the remote auction sites or via a remote user terminal.

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The Applicant has taken into account the Examiner's remarks and has responded by amending Claim 1 and Claim 18 to better define the present inventive system. The Applicant has more clearly defined the interaction between the taking of bids at the onsite location and categorizing them appropriately to be handled by the claimed auction system.

The independent claims clearly specify and claim the differences between collecting live bids and online bids and that it is done differently depending upon whether the bid collected is an online bid collected through the bidder computers or a live bid collected through the site terminal. It is now submitted that the newly amended claims describe the inventive system since the site terminal must be configured differently in order to accept the live bids from multiple live bidders at the auction location, in contrast to the online bids which only require the collection of online bids from one online bidder per online bidder computer. It is respectfully submitted that these limitations adequately describe the system claimed and differentiate the claims over the prior art.

### **35 USC §103 Rejections**

The Examiner's earlier rejection of Claims 1-27 of the present patent application in his Office Action of March 26, 2003 still remain. In that Office Action, the Examiner rejected the claims on the basis that they are obvious in view of the multiple references United States Patent Nos. 6,006,201 to Berent et al., 6,415,270 to Rackson et al. and in view of 6,226,412 to Schwab. Applicant's Attorney respectfully traverses the Examiner under this ground of rejection.

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Applicant initially notes that none of the prior art cited by the Examiner discloses or even remotely suggests an auction system with two different types of bidders, online bidders and multiple live bidders entering live bids into the bid database by tagging the individual live bids with unique identifiers. Furthermore none of the prior art teaches or suggests that there is a "site terminal configured to accept live bids from multiple live bidders".

Berent is directed to a complete online system for an electronic online motor vehicle auction and information system. More specifically, Berent discloses an electronic motor vehicle auction and information system that allows a remote user to access and search a vehicle database and display data about the motor vehicle auction dates and locations, vehicle inventory and used vehicle sales history. This remote user can then interactively participate in the online auction.

Berent discloses how a remote bidder accesses the auction:

"To begin using the on-line motor vehicle auction and information system, the user activates his or her workstation 2 in a conventional manner until the system icon is displayed on the Program Manager screen or Program Menu. After clicking on the system icon, the sign-on screen will appear. At this point, the user must enter his user number and password which has been assigned by the system administrator. The system will then dial the host network.

When the host network accepts the user's call and recognizes the user, the system main menu screen will appear. The system main menu screen will appear. The system main menu screen will include icons or command buttons which correspond to the seven primary user applications, along with a Help and Exit button." (Col 5, lines 66-67, Col 6, lines 1-11)

And later on during the auction:

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"To begin the Bidding Process, the user clicks on the Activate Bidding command button at the Electronic Auction Menu. At that time, the application will prompt the user for the PIN number corresponding to the day of sale. The bidding main screen then appears, with the notification of the start time of the motor vehicle auction. When the motor vehicle auction actually begins, the bid screen will appear. The bid screen includes an image and information about the vehicle being auctioned including vehicle run number, mileage, descriptive information, vehicle ID number, and condition and grade information. The bid screen also displays updated information as to the asking price, current bid price, the current bid number, and the previous bid number applicable to that vehicle. Finally, the bid screen keeps track of the units purchased during the motor vehicle auction by the user, and the dollar amount committed to purchases by the user during the sale.

During the sale, and while the bid screen is being displayed, a "start bidding" message will appear on the user's screen. At that point, the user may click on the bid command button to place a bid for the vehicle. The bid status section of the screen will then display "bidding" to confirm that a bid was entered from the user's workstation to the host network. When the user's bid is accepted, a message "you are current bidder" will appear in the status section of the bid screen. While the user is the current bidder, the user is not permitted to exit the sale or access on-line help." (Col 9, lines 59-67, Col 10, lines 1-17)

Nowhere in the disclosure of Berent is it suggested or even hinted that more than one remote user or bidder can enter bids on the same remote machine. To the contrary, Berent clearly teaches away from this element by the way in which it describes a user logging into the auction site using his or her "user number" and "password" and that the program does not allow him or her to log off while he or she is the current bidder. Nowhere in the disclosure of Berent is it suggested that the local PC workstation 2 could or should be modified in such a way as to allow more than one user to bid per workstation. It is respectfully submitted by the applicant that Berent cannot be cited for the proposition that it would be obvious in light of the disclosure to incorporate significant modifications to allow the local PC workstation 2 to record bids by multiple users.

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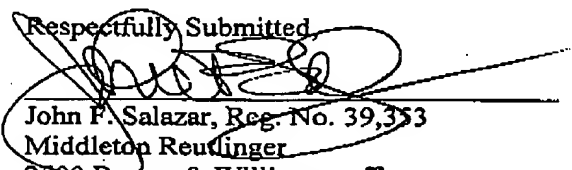
Rackson is directed to a method and system for multiple auction co-ordination. More specifically, Rackson discloses a sort of hierarchal bidding system with one top-level multi-action service server connected to various different remote auction servers. Online users then connect to one of these remote auction services. This system is used to co-ordinate bills on one parent server among a bunch of different child servers.

Rackson makes no suggestion or hint that multiple bids can be placed through a remote user's machine. Rather, the multiple bidders, Bidder 20 and Bidder 22 are always shown accessing the auction through separate remote terminals.

#### CONCLUSION

Applicants Attorney feels that the pending claims, as currently amended, define over the prior art cited by the Examiner and respectfully requests that the pending claims be allowed. If the Examiner feels discussion of the presently pending claims would aid in issuance of a notice of allowance, Applicant's Attorney would appreciate a collect call to discuss such issues.

Respectfully Submitted,

  
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